

### **REMARKS/ARGUMENTS**

The Office Action mailed June 7, 2004 has been carefully considered. Reconsideration in view of the following remarks is respectfully requested.

Claims 1, 16, 37, 41, 43 and 46 have been amended to further particularly point out and distinctly claim subject matter regarded as the invention. Support for these changes may be found in the specification, page 10, lines 1-10. The text of claims 2-4, 6-8, 10-15, 17, 39, 40, 42, 44, 45, 47 and 48 is unchanged, but their meaning is changed because they depend from amended claims.

Claims 5, 9, 18-36 and 38 have been canceled, without prejudice or disclaimer of the subject matter contained therein.

#### **The 35 U.S.C. § 103 Rejection**

Claims 1-4, 6-8, 10-17, 37 and 39-48 were rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Klimenko<sup>1</sup> in view of Cox et al.<sup>2</sup>; K. R. Sollings<sup>3</sup>; and Bailey et al.<sup>4</sup> among which claims 1, 16, 37, 41, 43 and 46 are independent claims. This rejection is respectfully traversed.

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<sup>1</sup> U.S. Patent 5,974,547

<sup>2</sup> U.S. Patent 5,349,643

<sup>3</sup> "The TFTP Protocol (Revision 2)" (hereinafter RFC 783)

<sup>4</sup> U.S. Patent 6,185,623

According to the Manual of Patent Examining Procedure (M.P.E.P.),

To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in the applicant's disclosure.<sup>5</sup>

Specifically, the Office Action contends that “Cox discloses a client/server system wherein the client may request a boot image from a server (col. 2, line 63 – col. 3, line 27). Cox provides no disclosure for sending a file name in the request for the boot image....At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the request packet to use only the file type, and not the whole file name and to include the port address to identify the file to be sent to the NIC of Klimenko. As Klimenko discloses in FIG. 4A, there is only one image file (250) for a particular client, thus it would have been obvious that the whole file name is unnecessary in requesting the image file.” Applicant respectfully disagrees.

In Cox, while there is no specific disclosure regarding sending a file name in the request, the request itself identifies the client, and this information is used to open the correct folder which stores the image file for the client (See Col. 5, lines 16-18, “[i]t is desirable for the ROM 42 of each client 20 to contain the previously noted principal name 26 of the SECIPL server or service 28.” This information is used to identify which image to download). It is debatable whether or not this constitutes sending the file name in the request. In some contexts, the term

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<sup>5</sup> M.P.E.P § 2143.

“file name” is interpreted to include folder names and even machine names. In Cox, the request essentially includes the folder name and/or machine name, and thus it can be argued that the request in Cox does in fact include the entire file name.

However, in order to make this distinction more clear, Applicant has amended each of the independent claims to indicate that the request itself does not identify the router card. This is clearly different from Cox, which does identify the client in the request, as well as all the other pieces of cited prior art.

Additionally, the Office Action alleges that “[o]ne of ordinary skill in the art would have been motivated to use the port address to first locate the directory corresponding to the particular client NIC in the server.” Applicant disagrees, and is unaware of the basis for this statement. There does not appear to be any mention in any of the cited prior art of using a port address to first locate a directory corresponding to a client in the server.

Applicant would also like to respectfully remind the Patent Office that it is not enough that references may show that certain information was known to the server at the time a decision as to which file to retrieve was made. The presently claimed invention specifies an affirmative step of examining the file type and the port address from the request packet to determine the file at the system controller to retrieve, and thus the references must, either alone or in combination, teach such an affirmative step. Merely having the file type or port address information available is not equivalent to using that information to determine which file to retrieve.

Thus, Applicant respectfully submits that independent claims 1, 16, 37, 41, 43, and 46 are in condition for allowance.

As to dependent claims 2-4, 6-8, 10-15, 17, 39-40, 42, 44-45, and 47-48, the argument set forth above is equally applicable here. The base claims being allowable, the dependent claims must also be allowable.

In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

#### Conclusion

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-1698.

Respectfully submitted,

THELEN REID & PRIEST, LLP



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